



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No. EPA-R02-OAR-2016-0059; FRL-9948-57-Region 2]

Approval of Air Quality Implementation Plans; New Jersey, Carbon Monoxide Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the New Jersey Department of Environmental Protection. This revision establishes an updated ten-year carbon monoxide (CO) limited maintenance plan for the New Jersey portion of the New York-Northern New Jersey-Long Island (NYNNJLI) CO area which includes the following areas: Hudson, Essex, Bergen, and Union Counties, and the municipalities of Clifton, Passaic and Paterson in Passaic County. New Jersey qualifies for a limited maintenance plan, rather than a full maintenance plan, because monitoring concentrations of CO are less than 85% of the standard. In a limited maintenance plan, future-year projection inventories and transportation conformity budgets are not required. In addition, EPA is also approving the 2007 Attainment/Base Year CO emissions inventory and the shutdown of 5 CO maintenance monitors in New Jersey.

The New Jersey portion of the NYNNJLI CO area was redesignated to attainment of the CO National Ambient Air Quality Standard (NAAQS) on August 23, 2002 and a maintenance plan was also approved at that time. By this action, EPA is approving a second limited maintenance

plan for this area because it provides for continued attainment of the CO NAAQS for an additional ten years. The intended effect of this rulemaking is to approve a SIP revision that will insure continued maintenance of the CO NAAQS.

DATES: This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R02-OAR-2016-0059. All documents in the docket are listed on the <http://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Henry Feingersh, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007-1866, telephone number (212) 637-3382, or by email at feingersh.henry@epa.gov.

SUPPLEMENTARY INFORMATION: The supplementary Information section is arranged as follows:

Table of Contents:

I. What Action is EPA Taking?

- II. What Comments did EPA Receive on its Proposal and What are EPA's Responses?
- III. What is the Adequacy Status of the CO Limited Maintenance Plan for the New Jersey Portion of the New York-Northern New Jersey-Long Island Area?
- IV. What is EPA's Final Action?
- V. Statutory and Executive Order Reviews

I. What Action is EPA Taking?

EPA is approving New Jersey's SIP revision updating their existing ten-year carbon monoxide (CO) maintenance plan for the New Jersey portion of the New York-Northern New Jersey-Long Island (NYNNJLI) CO area, which includes the following areas: Hudson, Essex, Bergen, and Union Counties, and the municipalities of Clifton, Passaic and Paterson in Passaic County, with another ten-year plan. The reader is referred to the March 25, 2016 (81 FR 16102) proposal for details on this rulemaking.

II. What Comments did EPA Receive on its Proposal and What are EPA's Responses?

EPA did not receive any comments on our proposed approval of the updated CO limited maintenance plan. EPA is approving the New Jersey SIP revision request.

III. What is the Adequacy Status of the CO Limited Maintenance Plan for the New Jersey Portion of the New York-Northern New Jersey-Long Island Area?

Section 118(e) of the transportation conformity rule (40 CFR part 93) states that a conformity determination cannot be made using submitted motor vehicle emission budgets ("budgets") until EPA makes a positive determination that the submitted budgets are adequate. In accordance

with our rule, the limited maintenance plan for the New Jersey portion of the New York-Northern New Jersey-Long Island (NYNNJLI) CO area was posted for adequacy review on July 27, 2015 on EPA's conformity Web site:

<http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm>.

As a general rule, however, limited maintenance plans, such as the maintenance plan for the NYNNJLI CO area, do not include budgets. Instead, for those areas that qualify under our limited maintenance plan policy for CO, we have concluded that the area will continue to maintain the CO NAAQS regardless of the quantity of emissions from the on-road transportation sector, and thus there is no need to cap emissions from the on-road transportation sector for the maintenance period.

Therefore, EPA's adequacy review of the limited maintenance plan for the NYNNJLI CO area primarily focuses on whether the area qualifies for the applicable limited maintenance plan policy for CO. From our review, EPA has concluded that the NYNNJLI CO area meets the criteria for a limited maintenance plan, and therefore we find the maintenance plan for the NYNNJLI CO area adequate for conformity purposes under our limited maintenance plan policy.

IV. What is EPA's Final Action?

EPA is approving New Jersey's SIP revision updating their existing ten-year CO maintenance plan for the New Jersey portion of the New York-Northern New Jersey-Long Island (NYNNJLI) CO area. EPA is also approving the 2007 CO base year emissions inventory and the shutdown of 5 CO maintenance monitors in New Jersey.

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: June 21, 2016.

Judith A. Enck,
Regional Administrator,
Region 2.

For the reasons set forth in the preamble, the Environmental Protection Agency amends part 52 of chapter I, title 40 of the Code of Federal Regulations as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart FF - New Jersey

2. Section 52.1581 is amended by adding paragraph (f) to read as follows:

§52.1581 Control strategy: Carbon monoxide.

* * * * *

(f) Approval - The June 11, 2015 and February 8, 2016 revisions to the carbon monoxide (CO) maintenance plan for the New Jersey portion of the New York-Northern New Jersey-Long Island, NYNNJLI, CO area. These revisions contain a second ten-year limited maintenance plan that demonstrates continued attainment of the National Ambient Air Quality Standard for CO through the year 2024, a 2007 CO base year emissions inventory, and the shutdown of five CO maintenance monitors.

[FR Doc. 2016-15609 Filed: 6/30/2016 8:45 am; Publication Date: 7/1/2016]